

21 C.J.S. Courts § 54

Corpus Juris Secundum | May 2023 Update

Courts

M. Elaine Buccieri, J.D.; James Buchwalter, J.D.; Amy G. Gore, J.D., of the staff of the National Legal Research Group, Inc; and Lonnie E. Griffith, Jr., J.D.

II. Jurisdiction of Courts

D. Jurisdiction of Person

4. Particular Circumstances or Actions Affecting Exercise of Personal Jurisdiction

§ 54. Contracts as basis for personal jurisdiction

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Courts](#)  [13.3\(10\)](#), [13.3\(11\)](#), [13.5\(3\)](#)

A contract having a substantial connection with the forum state may sometimes provide a basis for personal jurisdiction over a defendant with respect to a cause of action arising from the contract as when the contract is made or negotiated in the state.

A contract having a substantial connection with the forum state may provide a basis for personal jurisdiction over a defendant with respect to a cause of action arising from the contract¹ and even as applied to a single contract.² Some states apply a broad statutory standard of "transacting any business within the state" to exercise specific personal jurisdiction based on contracts to supply goods or services in the state³ even if the defendant never physically enters the state.⁴

Generally, the exercise of personal jurisdiction on a nonresident defendant requires an evaluation of the following factors surrounding the contract and its formation: (1) prior negotiations between the parties; (2) contemplated future consequences of the contract; (3) the terms of the contract;

and (4) the parties' actual course of dealing.⁵ Negotiating and executing the contract in the forum state is not alone sufficient for jurisdiction,⁶ and the formation or execution of the contract in the forum is not a prerequisite to jurisdiction,⁷ but formation or execution in the forum is one factor to be considered.⁸ A requirement for purposeful acts performed by the defendant in the forum state in relation to a contract to transact business in the forum includes acts before or after the execution of the contract.⁹ A contract may be deemed as made for jurisdictional purposes where its acceptance occurs.¹⁰

The mere fact that a forum resident is a party to the contract will not necessarily provide a basis for jurisdiction,¹¹ but when a party reaches out beyond one state and creates continuing relationships and obligations with citizens of another state, that party is subject to regulation and sanctions in the other state for the consequences of their activities.¹²

Interstate communications,¹³ as by means of mail or telephone concerning the formation of a contract, may not alone provide a basis for jurisdiction in the absence of business dealings in the forum,¹⁴ but may be considered as counting toward the requisite minimum contacts.¹⁵ Communications with the forum during the out-of-state performance of a contract are also not alone sufficient¹⁶ but are factors to consider.¹⁷

Choice of law or forum selection clause.

A choice-of-law provision¹⁸ or a forum selection clause cannot operate as the sole basis for the state to exercise personal jurisdiction over an objecting nonresident defendant, but may be considered as a factor,¹⁹ and is enforceable when reasonable.²⁰

CUMULATIVE SUPPLEMENT

Cases:

Contract between foreign airplane manufacturer and foreign manufacturer of airplane's pressurization system, in which systems manufacturer agreed to provide airplane manufacturer with pressurization system for use in airplane, did not establish purposeful conduct on part of system manufacturer to provide services in state, as necessary for courts to exercise personal jurisdiction over system manufacturer in action brought by administrator of estates of decedents, who died in plane crash after cabin depressurized and decedents lost consciousness, even though

plane with manufacturer's pressurization system ended up in state. N.Y. CPLR § 302(a)(1). *Glazer v. Socata, S.A.S.*, 170 A.D.3d 1685, 96 N.Y.S.3d 791 (4th Dep't 2019).

[END OF SUPPLEMENT]

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Footnotes

- 1 Ark.—*Hotfoot Logistics, LLC v. Shipping Point Marketing, Inc.*, 2013 Ark. 130, 426 S.W.3d 448 (2013).
Minn.—*Volkman v. Hanover Investments, Inc.*, 843 N.W.2d 789 (Minn. Ct. App. 2014).
Mont.—*Milky Whey, Inc. v. Dairy Partners, LLC*, 2015 MT 18, 378 Mont. 75, 342 P.3d 13 (2015).
Tex.—*Leonard v. Salinas Concrete, LP*, 470 S.W.3d 178 (Tex. App. Dallas 2015).
Substantial relationship to claim
N.Y.—*Pichardo v. Zayas*, 122 A.D.3d 699, 996 N.Y.S.2d 176 (2d Dep't 2014), leave to appeal denied, 26 N.Y.3d 905, 17 N.Y.S.3d 87, 38 N.E.3d 833 (2015).
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Construction and application of state statutes or rules of court predicated in personam jurisdiction over nonresidents or foreign corporations on making or performing a contract within the state, 23 A.L.R.3d 551.
- 2 Ark.—*Twin Springs Group, Inc. v. Karibuni, Ltd.*, 2009 Ark. App. 649, 344 S.W.3d 100 (2009).
Minn.—*Volkman v. Hanover Investments, Inc.*, 843 N.W.2d 789 (Minn. Ct. App. 2014).
- 3 U.S.—*Eades v. Kennedy, PC Law Offices*, 799 F.3d 161 (2d Cir. 2015) (applying New York law).
N.Y.—*Paradigm Marketing Consortium, Inc. v. Yale New Haven Hosp., Inc.*, 124 A.D.3d 736, 2 N.Y.S.3d 180 (2d Dep't 2015).
Employment of resident for in-state services
Wash.—*Failla v. FixtureOne Corp.*, 181 Wash. 2d 642, 336 P.3d 1112 (2014), cert. denied on other grounds, 135 S. Ct. 1904, 191 L. Ed. 2d 765 (2015).
- 4 N.Y.—*Paradigm Marketing Consortium, Inc. v. Yale New Haven Hosp., Inc.*, 124 A.D.3d 736, 2 N.Y.S.3d 180 (2d Dep't 2015).
- 5 Idaho—*Profits Plus Capital Management, LLC v. Podesta*, 156 Idaho 873, 332 P.3d 785 (2014).
Ill.—*Compass Environmental, Inc. v. Polu Kai Services, L.L.C.*, 379 Ill. App. 3d 549, 318 Ill. Dec. 26, 882 N.E.2d 1149 (1st Dist. 2008).
Iowa—*Ostrem v. Prideco Secure Loan Fund, LP*, 841 N.W.2d 882 (Iowa 2014).
Mo.—*Peoples Bank v. Frazee*, 318 S.W.3d 121 (Mo. 2010).
S.C.—*Delta Apparel, Inc. v. Farina*, 406 S.C. 257, 750 S.E.2d 615 (Ct. App. 2013).
Tex.—*Leonard v. Salinas Concrete, LP*, 470 S.W.3d 178 (Tex. App. Dallas 2015).

Wash.—Freestone Capital Partners L.P. v. MKA Real Estate Opportunity Fund I, LLC, 155 Wash. App. 643, 230 P.3d 625 (Div. 1 2010).

Other factors considered

U.S.—Vista Food Exchange, Inc. v. Champion Foodservice, LLC, 124 F. Supp. 3d 301 (S.D. N.Y. 2015) (applying New York law).

6 S.C.—Delta Apparel, Inc. v. Farina, 406 S.C. 257, 750 S.E.2d 615 (Ct. App. 2013).

Contrary rule by statute

U.S.—Grand River Enterprises Six Nations, Ltd. v. Pryor, 425 F.3d 158 (2d Cir. 2005) (applying New York law).

7 Tex.—Leonard v. Salinas Concrete, LP, 470 S.W.3d 178 (Tex. App. Dallas 2015).

8 U.S.—Bissonnette v. Podlaski, 2015 WL 5853834 (S.D. N.Y. 2015) (applying New York law).

Colo.—Gognat v. Ellsworth, 224 P.3d 1039 (Colo. App. 2009), judgment aff'd, 259 P.3d 497 (Colo. 2011).

9 N.Y.—Wilson v. Dantas, 128 A.D.3d 176, 9 N.Y.S.3d 187 (1st Dep't 2015).

S.C.—Delta Apparel, Inc. v. Farina, 406 S.C. 257, 750 S.E.2d 615 (Ct. App. 2013).

10 Mo.—Casework, Inc. v. Hardwood Associates, Inc., 466 S.W.3d 622 (Mo. Ct. App. W.D. 2015), as modified on other grounds, (June 2, 2015) and reh'g and/or transfer denied, (June 2, 2015) and transfer denied, (Aug. 18, 2015).

11 Ind.—Wolf's Marine, Inc. v. Brar, 3 N.E.3d 12 (Ind. Ct. App. 2014).

Iowa—Sioux Pharm, Inc. v. Summit Nutritionals Int'l, Inc., 859 N.W.2d 182 (Iowa 2015).

Mont.—Milky Whey, Inc. v. Dairy Partners, LLC, 2015 MT 18, 378 Mont. 75, 342 P.3d 13 (2015).

Neb.—RFD-TV, LLC v. WildOpenWest Finance, LLC, 288 Neb. 318, 849 N.W.2d 107 (2014).

Tex.—Weatherford Artificial Lift Systems, Inc. v. A & E Systems SDN BHD, 470 S.W.3d 604 (Tex. App. Houston 1st Dist. 2015).

12 Iowa—Sioux Pharm, Inc. v. Summit Nutritionals Int'l, Inc., 859 N.W.2d 182 (Iowa 2015).

Tex.—Kawaja v. Crawford's Auto Repair, 413 S.W.3d 194 (Tex. App. Beaumont 2013).

13 Mont.—Milky Whey, Inc. v. Dairy Partners, LLC, 2015 MT 18, 378 Mont. 75, 342 P.3d 13 (2015).

14 Iowa—RFD-TV, LLC v. WildOpenWest Finance, LLC, 288 Neb. 318, 849 N.W.2d 107 (2014).

Neb.—RFD-TV, LLC v. WildOpenWest Finance, LLC, 288 Neb. 318, 849 N.W.2d 107 (2014).

As to Internet activity and e-mail communications, generally, see § 53.

One phone call insufficient

Mo.—Poor Boy Tree Service, Inc. v. Dixie Elec. Membership Corp., 390 S.W.3d 930 (Mo. Ct. App. S.D. 2013).

15 Neb.—RFD-TV, LLC v. WildOpenWest Finance, LLC, 288 Neb. 318, 849 N.W.2d 107 (2014).

16 Tex.—Waterman Steamship Corp. v. Ruiz, 355 S.W.3d 387 (Tex. App. Houston 1st Dist. 2011).

17 Tex.—2007 East Meadows, L.P. v. RCM Phoenix Partners, L.L.C., 310 S.W.3d 199 (Tex. App. Dallas 2010).

18 Ill.—Graver v. Pinecrest Volunteer Fire Dept., 2014 IL App (1st) 123006, 379 Ill. Dec. 174, 6 N.E.3d 251 (App. Ct. 1st Dist. 2014).

Tex.—Leonard v. Salinas Concrete, LP, 470 S.W.3d 178 (Tex. App. Dallas 2015).

Sufficient contacts despite clause

Minn.—Volkman v. Hanover Investments, Inc., 843 N.W.2d 789 (Minn. Ct. App. 2014).

19 Fla.—Hamilton v. Hamilton, 142 So. 3d 969 (Fla. 4th DCA 2014).

20 N.Y.—Putnam Leasing Co., Inc. v. Pappas, 46 Misc. 3d 195, 995 N.Y.S.2d 457 (Dist. Ct. 2014).

Unreasonable clause unenforceable

Okla.—Burggraf Services, Inc. v. H2O Solutions, 2014 OK CIV APP 88, 369 P.3d 52 (Div. 3 2014).

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